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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 Case No. 2:18-cv-01954-RFB-GWF

7 THOMAS OATES,

ORDER

8 Plaintiff,

9 v.

10 LAS VEGAS METROPOLITAN POLICE, *et*
11 *al.*,

12 Defendants.
13

14 This action is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a
15 county inmate. On October 15, 2018, this Court issued an order denying the application
16 to proceed *in forma pauperis*, without prejudice, because the application was incomplete.
17 (ECF No. 3 at 1-2). The Court ordered Plaintiff to file a fully complete application to
18 proceed *in forma pauperis* or pay the full filing fee of \$400.00 within thirty days from the
19 date of that order. (*Id.* at 2). The thirty-day period has now expired, and Plaintiff has not
20 filed another application to proceed *in forma pauperis*, paid the full filing fee, or otherwise
21 responded to the Court's order.

22 District courts have the inherent power to control their dockets and “[i]n the
23 exercise of that power, they may impose sanctions including, where appropriate . . .
24 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
25 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
26 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
27 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
28 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal

1 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
2 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
3 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
4 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
5 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
6 failure to comply with local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to obey
8 a court order, or failure to comply with local rules, the court must consider several factors:
9 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
10 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
11 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
12 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
13 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

14 Here, the Court finds that the first two factors, the public's interest in expeditiously
15 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
16 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
17 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
18 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
19 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring
20 disposition of cases on their merits – is greatly outweighed by the factors in favor of
21 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
22 the court's order will result in dismissal satisfies the "consideration of alternatives"
23 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
24 F.2d at 1424. The Court's order requiring Plaintiff to file another application to proceed
25 *in forma pauperis* or pay the full filing fee within thirty days expressly stated: "IT IS
26 FURTHER ORDERED that if Plaintiff does not timely comply with this order, dismissal of
27 this action may result." (ECF No. 3 at 2). Thus, Plaintiff had adequate warning that

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1 dismissal would result from his noncompliance with the Court's order to file another
2 application to proceed *in forma pauperis* or pay the full filing fee within thirty days.

3 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
4 based on Plaintiff's failure to file another application to proceed *in forma pauperis* or pay
5 the full filing fee in compliance with this Court's October 15, 2018, order.

6 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter
7 judgment accordingly.

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9 DATED this 26th day of November, 2018.



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11 RICHARD F. BOULWARE, II
12 UNITED STATES DISTRICT JUDGE
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